

MONTANA FISH AND GAME DEPARTMENT

THE FIRST SEVENTEEN MONTHS WITH MONTANA'S STREAM PRESERVATION ACT

By

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and

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Montana's Stream Preservation Act, which allows the Fish and Game Department to help other agencies or subdivisions of state government prevent or decrease damage to stream fish habitat, became effective July 1, 1963. Unless it is made permanent by the 1965 legislature this Act will end on June 30, 1965.

The Montana Fish and Game Department believes the Act is fair and workable, and should be made permanent. Through our operations under this Act, trout habitat has been preserved for Montana anglers. Because the Fish and Game Department considers this habitat preservation to be an important part of its fishery management program, a review of the work was included in our 1962-64 Biennial Report. That summary covered the period July 1, 1963 through June 30, 1964. Projects received since that time have been included with the data from the Biennial, and all projects reviewed to date under the Act are included in this report.

Forty-eight legal notices of construction projects affecting streams have been received and processed from all agencies under the Stream Preservation Act, during the period July 1, 1963 through November 30, 1964. Following is an outline summary of the action taken on these projects:

I. Forty-four came from the Montana Highway Department.

A. No special provisions were asked for on 32 of these 44 projects.

1. Sixteen of the 32 were least harmful as planned.

- (a) Fourteen of the 16 were right angle bridge crossings.
- (b) The other two were minor channel encroachments from one bank.

2. Sixteen of the 32 were harmful to stream habitat. However, the low fishery values of the streams involved did not warrant the additional construction expense which would have been necessary to avoid or reduce the damage.

B. Special provisions were asked on 12 of the 44 projects.

1. Agreement has been reached on 9 of these 12 projects.

- (a) One was a line change.
- (b) One was the addition of two bridges to save a meander.
- (c) Two were replacement of meanders.
- (d) Three included structures and access areas.
- (e) Two included structures and meandering the stream in a new low-water channel.

2. No agreement has been reached on three of the 12 projects.

- (a) Bearmouth East & West, and Bearmouth West. These were first submitted in July and October of 1963 and our recommendations for a line change were never answered. We understand this was due to a change in plans required by railroad realignment.

Small-scale, revised plans for both projects were re-submitted on August 11, 1964 without legal notification. Since then, while more detailed plans are being prepared, we have been negotiating for some combination of routes which will reduce the 19,000 feet of channel change required by the Highway's proposed route.

- (b) Bonner-Ovando. Plans were submitted on October 4, 1963. We requested information on costs of avoiding a major channel change at Rainbow Bend on October 23 and received the necessary cost figures on December 16, 1963 and January 6, 1964. On February 24, 1964, we recommended moving the alignment to avoid the channel change. No answer has been received.

II. Four of the 48 notices came from cities and counties.

A. No special provisions were recommended on two projects.

- 1. One was least damaging as submitted, a right-angle pipeline crossing.
- 2. One was damaging to an unimportant stream.

B. Special provisions were recommended on two projects.

- 1. The county accepted our recommendations on one project.
- 2. Legal notice was cancelled on the other project the day after we received it. This was done by transferring the work to the Corps of Engineers who are not included under the Stream Preservation Act. Under the Federal Coordination Act, we made our recommendations to the Corps via the Fish and Wildlife Service. The Corps accepted and followed our recommendations.

The projects outlined above, summarized briefly by percentage are:

- 1. Approved as submitted - 71%
- 2. Changed to prevent loss of fish habitat - 23%
- 3. Undecided, delayed or dropped by constructing agency - 6%

Thus, the present Stream Preservation Act has saved stream-fish habitat; 23% of the projects submitted were altered in some manner to do this. The Act has not been a bottleneck to all streamside construction; 94% of the projects submitted were processed within the framework of the Act. Arbitration has not been used on the 6% of the projects which are undecided because the constructing agency has never notified us of refusal to accept our recommendations.

We believe this summary demonstrates the present Act is workable. It has not blocked all streamside construction projects, and it is necessary to help preserve Montana's excellent stream trout fishery. The Act should be made permanent.